

117TH CONGRESS
2D SESSION

S. 5003

To amend the Klamath Basin Water Supply Enhancement Act of 2000 to provide the Secretary of the Interior with certain authorities with respect to projects affecting the Klamath Basin watershed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Mr. WYDEN (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Klamath Basin Water Supply Enhancement Act of 2000 to provide the Secretary of the Interior with certain authorities with respect to projects affecting the Klamath Basin watershed, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Klamath Power and
5 Facilities Agreement Support Act”.

1 **SEC. 2. KLAMATH PROJECT WATER AND POWER.**

2 (a) ADDRESSING WATER, POWER, AND FACILITIES
 3 MANAGEMENT FOR IRRIGATION.—Section 4 of the Klam-
 4 ath Basin Water Supply Enhancement Act of 2000 (Pub-
 5 lic Law 106–498; 114 Stat. 2221; 132 Stat. 3886; 134
 6 Stat. 976) is amended—

7 (1) in subsection (b), by striking paragraph (1)
 8 and inserting the following:

9 “(1) IN GENERAL.—Subject to appropriations
 10 and required environmental reviews, the Secretary is
 11 authorized to carry out activities, including entering
 12 into a contract or making financial assistance avail-
 13 able through cooperative agreements or other meth-
 14 ods, to plan, implement, and administer programs,
 15 including conservation and efficiency measures, land
 16 idling, and use of groundwater, to align water sup-
 17 plies and demand for irrigation water users associ-
 18 ated with the Klamath Project, with a primary em-
 19 phasis on programs developed or endorsed by local
 20 entities comprised of representatives of those water
 21 users.”;

22 (2) in subsection (c), by adding at the end the
 23 following:

24 “(2) IMPLEMENTATION.—

25 “(A) IN GENERAL.—Beginning not later
 26 than 180 days after the date of enactment of

1 the Klamath Power and Facilities Agreement
2 Support Act, the Secretary shall, through 1 or
3 more cooperative agreements, financial assist-
4 ance agreements, or other methods, implement,
5 or support the implementation of, the rec-
6 ommendations identified in the report described
7 in paragraph (1) that the Secretary determines
8 would lead to bringing the net delivered power
9 cost for covered power use to an amount that
10 is the same as, or less than, the power cost
11 benchmark, subject to the availability of appro-
12 priations, on the fastest timeline practicable,
13 with respect to near- and long-term actions.

14 “(B) REQUIREMENT.—The implementation
15 of recommendations under subparagraph (A)
16 shall be carried out in accordance with—

17 “(i) the report submitted under para-
18 graph (1); and

19 “(ii) any reports submitted under
20 paragraph (3).

21 “(3) ADDITIONAL REPORTS.—Not later than
22 April 30, 2025, and every 5 years thereafter, the
23 Secretary shall submit to each committee described
24 in the matter preceding subparagraph (A) of para-
25 graph (1) a report that describes—

1 “(A) any progress toward meeting the re-
2 quirements of this subsection; and

3 “(B) any modifications or updates to the
4 actions recommended under paragraph
5 (1)(B).”; and

6 (3) by adding at the end the following:

7 “(d) RESTORATION ACTIVITIES.—The Secretary
8 may—

9 “(1) plan, design, construct, operate, and main-
10 tain projects in the Klamath Basin watershed, in-
11 cluding—

12 “(A) facilities to reduce fish entrainment;

13 “(B) projects that reduce or avoid impacts
14 on aquatic resources of facilities involved in the
15 storage or diversion of water for irrigation in
16 the Klamath Project service area; and

17 “(C) projects that restore habitats in the
18 Klamath Basin watershed, including Tribal
19 fishery resources held in trust;

20 “(2) undertake studies, including feasibility
21 studies, and improvements that the Secretary deter-
22 mines to be necessary to implement this subsection;

23 “(3) in implementing this subsection, enter into
24 contracts, memoranda of understanding, financial

1 assistance agreements, cost-sharing agreements, or
2 other appropriate agreements with—

3 “(A) State, Tribal, and local governmental
4 agencies; and

5 “(B) private parties; and

6 “(4) accept and expend non-Federal funds in
7 order to facilitate implementation of this subsection.

8 “(e) GOALS.—The goals of activities under sub-
9 sections (b) and (d) shall include, as applicable—

10 “(1) the short-term and long-term reduction
11 and resolution of conflicts relating to water in the
12 Klamath Basin watershed; and

13 “(2) compatibility and utility for protecting nat-
14 ural resources throughout the Klamath Basin water-
15 shed, including the protection, preservation, and res-
16 toration of Klamath River Tribal fishery resources,
17 particularly through collaboratively developed agree-
18 ments.

19 “(f) PUMPING PLANT D.—The Secretary may enter
20 into 1 or more agreements with the Tulelake Irrigation
21 District to reimburse the Tulelake Irrigation District for
22 not more than 69 percent of the cost incurred by the
23 Tulelake Irrigation District for the operation and mainte-
24 nance of Pumping Plant D, subject to the condition that
25 the cost results in benefits to the United States.

1 “(g) KENO AND LINK RIVER DAMS.—The Secretary
 2 shall comply with the terms of the agreement entitled
 3 ‘2016 Klamath Power and Facilities Agreement’, includ-
 4 ing Attachment A to the agreement.

5 “(h) REPLACEMENT OF C CANAL FLUME.—

6 “(1) IN GENERAL.—The replacement of the C
 7 Canal flume within the Klamath Project shall be
 8 considered to be, and shall receive the treatment au-
 9 thorized for, qualified emergency extraordinary oper-
 10 ation and maintenance work in accordance with Fed-
 11 eral reclamation law (the Act of June 17, 1902 (32
 12 Stat. 388, chapter 1093), and Acts supplemental to
 13 and amendatory of that Act (43 U.S.C. 371 et
 14 seq.)).

15 “(2) CONTRACT.—

16 “(A) IN GENERAL.—Not later than 180
 17 days after the date of receipt of a request from
 18 the Klamath Irrigation District to enter into a
 19 contract with the Klamath Irrigation District to
 20 amend the contract numbered 16–WC–20–
 21 4838, the Secretary shall enter into a contract
 22 with the Klamath Irrigation District providing
 23 that—

24 “(i) 35 percent of the total repayment
 25 obligation under the contract entered into

1 under this subparagraph is nonreimburs-
2 able to the United States; and

3 “(ii) 65 percent of the total repay-
4 ment obligation under the contract entered
5 into under this subparagraph shall be re-
6 paid to the United States over a period of
7 50 years.

8 “(B) INCLUSION.—Although the Secretary
9 shall not condition the agreement to the con-
10 tract entered into under subparagraph (A) on
11 any other term, the contract may include other
12 terms that are not less favorable to the con-
13 tractor than contract numbered 16–WC–20–
14 4838.”.

15 (b) ADMINISTRATION; EFFECT.—

16 (1) COMPLIANCE.—In implementing the amend-
17 ments made by this section, the Secretary of the In-
18 terior shall comply with—

19 (A) the National Environmental Policy Act
20 of 1969 (42 U.S.C. 4321 et seq.);

21 (B) the Endangered Species Act of 1973
22 (16 U.S.C. 1531 et seq.); and

23 (C) all other applicable laws.

24 (2) EFFECT.—None of the amendments made
25 by this section—

1 (A) modify any authority or obligation of
2 the United States with respect to any Tribal
3 trust or treaty obligation of the United States;

4 (B)(i) create or determine any water right;
5 or

6 (ii) affect any water right or water right
7 claim in existence on the date of enactment of
8 this Act; or

9 (C) authorize the use of Federal funds for
10 the physical deconstruction of the Iron Gate,
11 Copco 1, Copco 2, or John C. Boyle Dam lo-
12 cated on the Klamath River in the States of
13 California and Oregon.

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